

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

IN RE:)	Chapter 13
DAVONTEA JEROME MALLETT,)	Judge Paul W. Bonapfel
ANGEL ALEXIS MARIAH MALLETT,)	Bankr. Case No. 21-41154 PWB
Debtors.)	
)	
SEVEN HILLS RENTALS, INC.,)	
Movant,)	
)	
vs.)	MOTION FOR RELIEF FROM
)	AUTOMATIC STAY
DAVONTEA JEROME MALLETT,)	
ANGEL ALEXIS MARIAH MALLETT,)	
Debtors,)	
K. EDWARD SAFIR, Trustee,)	
Respondents.)	

COMES NOW SEVEN HILLS RENTALS, INC., a party in interest in the above-captioned matter, and Movant in this proceeding, and respectfully moves this Court for an Order for relief from the automatic stay, and shows this Court as follows:

-1-

The above-captioned Debtors, Davontea Jerome Mallett and Angel Alexis Mariah Mallett, filed a Voluntary Petition pursuant to 11 U.S.C. Chapter 13 of the Bankruptcy Code on September 21, 2021, and as of the filing date of this Motion, the case is still pending confirmation.

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The Bankruptcy Court has jurisdiction over this proceeding pursuant to 28 U.S.C. Section 157, and 11 U.S.C. Section 362.

-3-

On or about March 7, 2020, Debtors executed and delivered to Movant a certain Lease Agreement for residential property in which Debtors agreed to lease from Movant the premises located and being 411 Nixon Avenue, Apt. B, Rome, Georgia, commencing March 13, 2020, for a 1-year tenancy ending March 31, 2021, at a rental rate of Five Hundred Fifty and 00/100 Dollars (\$550.00) monthly. The lease expired by its own terms on March 31, 2021. Exhibit 1.

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Debtors' proposed plan provides to assume the lease and cure a pre-petition arrearage of \$5500.00. However, Debtors propose to cure the pre-petition lease arrearage at only One Hundred and No/100 Dollars (\$100.00) per month. Therefore, Debtors' plan does not provide adequate protection to Movant, exceeds the applicable commitment period, and is not feasible. Moreover, in that the lease at issue expired by its own terms prior to the filing of this case, Debtors cannot assume this lease under 11 U.S.C. § 1322(b)(7) and § 365(a) to the extent those code sections allow for assumption of an "unexpired lease of the debtor."

-5-

Pre-petition, Debtors were in arrears in rental payments and other costs and fees in the amount of Eleven Thousand Three Hundred Ninety Three and 44/100 Dollars (\$11,393.44), not including court costs, attorney's fees, and other costs associated with this bankruptcy matter. Post-petition, Debtors have not made any rental payments to Movant,

-6-

Movant seeks dispossession for non-payment of rents, fees and costs above.

-7-

The continuation of the lease is not necessary for the reorganization of the Debtors, and the lease

is burdensome to the estate and of inconsequential value and should be abandoned.

-8-

Movant requests that Bankruptcy Rule 4001(a)(3) be waived.

WHEREFORE Movant moves this Court for an Order terminating the automatic stay pursuant to 11 U.S.C. Section 362 as to the above-described leasehold premises so that Movant may proceed with any and all State Court remedies and any and all remedies pursuant to the lease under Georgia law; directing any appointed Trustee to abandon any interest in the lease Agreement; waiving the requirement of Bankruptcy Rule 4001(a)(3); and for such other and further relief as the Court deems just and appropriate.

This 8th day of November, 2021.

Law Office of J. Andrew Owens, LLC
Attorney for Movant

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s/: J. Andrew Owens
J. ANDREW OWENS
Georgia Bar Number: 557455

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Debtors.)	
)	
SEVEN HILLS RENTALS, INC.,)	
Movant,)	
)	
vs.)	MOTION FOR RELIEF FROM
)	AUTOMATIC STAY
DAVONTEA JEROME MALLETT,)	NOTICE OF HEARING
ANGEL ALEXIS MARIAH MALLETT,)	
Debtors,)	
K. EDWARD SAFIR, Trustee,)	
Respondents.)	

PLEASE TAKE NOTICE that Seven Hills Rentals, Inc. has filed a Motion for Relief from Automatic Stay with this Court seeking an order lifting the automatic stay so that Movant may proceed with a dispossession in Magistrate Court as to a certain lease on a tract of real estate and property in Rome, Floyd County, Georgia.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion for Relief from Automatic Stay, in Courtroom 342, 600 East First Street, Federal Building, Rome, GA 30161, at **10:15 a.m. on Wednesday, December 1, 2021**. Matters that need to be heard further by the Court may be heard by telephone, by video conference, or in person, either on the date set forth above or on some other day, all as determined by the Court in connection with this initial telephonic hearing. Please review the “Hearing Information” tab on the judge’s webpage, which can be found under the “Dial-in and Virtual Bankruptcy Hearing Information” link at the top of the webpage for this Court, www.ganb.uscourts.gov for more information. *Given the current public health crisis, hearings may be telephonic only. Please check the “Important Information Regarding Court Operations During COVID-19 Outbreak” tab at the top of the GANB Website prior to the hearing for instructions on whether to appear in person or by phone.* <http://www.ganb.uscourts.gov/news/public-notice-regarding-court-operations-during-covid-19-outbreak>.

Your rights may be affected by the Court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one. If you do not want the Court to grant the relief sought in these pleadings, or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a response, you must attach a certificate stating when, how and on whom (including addresses)

you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address for the Clerk's office is: Clerk, United States Bankruptcy Court, 600 East First Street, Federal Building, Rome, GA 30161-3187.

IF THE MOTION IS FOR RELIEF FROM STAY, and a hearing on the motion for relief from the automatic stay cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within thirty days of filing the motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.

This 8th day of November, 2021.

Law Office of J. Andrew Owens, LLC
Attorney for Movant

s/ J. Andrew Owens
J. Andrew Owens
Georgia Bar # 557455

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)	
SEVEN HILLS RENTALS, INC.,)	
Movant,)	
)	
vs.)	MOTION FOR RELIEF FROM
)	AUTOMATIC STAY
DAVONTEA JEROME MALLETT,)	CERTIFICATE OF SERVICE
ANGEL ALEXIS MARIAH MALLETT,)	
Debtors,)	
K. EDWARD SAFIR, Trustee,)	
Respondents.)	

I, J. ANDREW OWENS, of the Law Office of J. Andrew Owens, LLC, certify: That I am, and at all times hereinafter mentioned, was more than 18 years of age and not a party to this matter; That on the 8th day of November, 2021, I served a copy of the Motion for Relief from Automatic Stay and Notice of Hearing filed in the above-styled case on the Respondent(s) in this bankruptcy matter by first-class United States mail, postage prepaid at:

Davontea Jerome Mallett	Angel Alexis Mariah Mallett
411 Nixon Ave.	411 Nixon Ave.
Apt. B	Apt. B
Rome, GA 30161	Rome, GA 30161

and by ECF on	K. Edward Safir	Jessica Glover
	Chapter 13 Trustee	Attorney for Debtors

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on November 8, 2021.

By: s./: J. Andrew Owens
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